

ORIGINAL
E-Filed

1 ERIC DONEY, #76260
eric@donahue.com
2 JULIE E. HOFER, #152185
julie@donahue.com
3 ANDREW S. MACKAY, #197074
andrew@donahue.com
4 DONAHUE GALLAGHER WOODS LLP
1999 Harrison Street, 25th Floor
5 Oakland, California 94612-3520
Telephone: (510) 451-0544
6 Facsimile: (510) 832-1486

7 Attorneys for Plaintiff
AUTODESK, INC.
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 AUTODESK, INC., a Delaware
corporation,
13

14 Plaintiff,

v.

15 CLASSIC EQUINE EQUIP., INC., a
Missouri corporation,
16

17 Defendant.
18

CASE NO.

C10-01820

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

FILED
APR 28 2010
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND
Felt
Patt
JCS.
@
10
LB

CO 14 SEC. N
NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SEIT

1 Plaintiff Autodesk, Inc. ("Autodesk") states and alleges as follows for its complaint
2 against defendant Classic Equine Equip., Inc. ("Defendant").

3 **JURISDICTION AND VENUE**

4 **Parties**

5 1. Autodesk is a Delaware corporation with its principal place of business in San
6 Rafael, California.

7 2. Autodesk is informed and believes and thereon alleges that Defendant is a
8 Missouri corporation with its principal place of business in Fredericktown, Missouri.

9 **Jurisdiction**

10 3. This case is a civil action arising under the copyright laws of the United States, 17
11 U.S.C. § 101, *et seq.* (the "Copyright Act"). This Court has subject matter jurisdiction over
12 Autodesk's claims pursuant to 17 U.S.C. § 501, *et seq.* (copyright), 28 U.S.C. § 1331 (federal
13 subject matter jurisdiction), and 28 U.S.C. § 1338(a) (copyright actions).

14 4. Autodesk is informed and believes and thereon alleges that Defendant knew, or
15 reasonably should have known, that Autodesk: (a) is located in California, and that Defendant
16 directed and aimed its unauthorized activities at Autodesk, which is located in the Northern
17 District of California; and (b) would likely suffer the brunt of the harm caused by Defendant in
18 California at Autodesk's principal place of business. Defendant's activities complained of herein
19 caused Autodesk to bear the brunt of the harm in California at its principal place of business in
20 San Rafael, California within this District.

21 **Venue**

22 5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
23 1400(a).

24 **Intradistrict Assignment**

25 6. Because this matter is an Intellectual Property Action, there is no basis for
26 assignment to a particular location or division of the Court pursuant to Civil L.R. 3-2(c).

27 ///

28 ///

GENERAL ALLEGATIONS

Introduction

7. Autodesk is in the business of, and has made and continues to make substantial investments of time, effort, and expense in, designing, developing, testing, manufacturing, publishing, marketing, distributing, and licensing a wide variety of software products recorded on various media, including without limitation optical disks, for use on computers.

8. In connection with Autodesk's software products, Autodesk owns copyrights that are the subject of registrations with the United States Copyright Office.

9. Widespread use of illegal copies of Autodesk's software products (commonly known as software piracy) has caused, and continues to cause, significant harm to Autodesk and undermines Autodesk's investments in its products.

10. Autodesk brings this action as a result of Defendant's unauthorized reproduction and use of certain of Autodesk's software products. Defendant's actions and omissions complained of herein were and continue to be undertaken willfully, intentionally, and maliciously and have caused and continue to cause substantial damage to Autodesk.

11. Autodesk respectfully requests that the Court enter an injunction against Defendant and award Autodesk damages, costs, and attorney's fees as allowed by statute.

Autodesk's Software Products and Copyrights

12. Autodesk's software products include computer aided design and other design programs, such as AutoCAD® 2002 software. This product along with its reference materials is hereinafter collectively referred to as the "Autodesk Product."

13. The Autodesk Product contains a large amount of material that is wholly original with Autodesk and is copyrightable subject matter under the laws of the United States. At all times herein relevant, Autodesk complied in all respects with the Copyright Act and secured the exclusive rights and privileges in and to the copyright in the Autodesk Product (collectively the "Autodesk Copyright").

14. The Autodesk Product is an original work, copyrightable under the Copyright Act, and has been timely registered in full compliance with the Copyright Act. Autodesk has received

1 a Certificate of Registration from the Register of Copyrights for the Autodesk Product, a copy of
2 which is attached as Exhibit A hereto and incorporated herein by reference.

3 15. Since the registration of the Autodesk Copyright, the Autodesk Product has been
4 published and distributed by Autodesk or under its authority in compliance with the provisions of
5 the Copyright Act. Autodesk has thus fully maintained the validity of the copyright in the
6 Autodesk Product.

7 16. Autodesk has never authorized Defendant to copy or reproduce the Autodesk
8 Product in violation of any applicable end-user license agreement.

9 **The Business and Infringing Activities of Defendant**

10 17. Autodesk is informed and believes and thereon alleges that Defendant provides
11 stall systems, barn components, exercisers and accessories to horse owners. According to
12 Defendant's website, one of Defendant's Projects of Recognition is the Equestrian Facilities at
13 Stanford University, located in this District. *See* <http://www.classic-equine.com/projects.html>.
14 Autodesk is informed and believes and thereon alleges that in conducting its business Defendant
15 has engaged in the unauthorized reproduction of the Autodesk Product onto computers located at
16 its premises and that Defendant uses copies of the Autodesk Product.

17 18. Autodesk is informed and believes and thereon alleges that Defendant has
18 purchased only one single license for Autodesk's AutoCAD® 2002 software.

19 19. Autodesk is informed and believes and thereon alleges that, without Autodesk's
20 authorization, Defendant has copied and reproduced the Autodesk Product.

21 20. Autodesk is informed and believes and thereon alleges that Defendant has
22 willfully, intentionally, and maliciously engaged in the acts and omissions complained of herein
23 without regard to Autodesk's proprietary rights.

24 **FIRST CLAIM FOR RELIEF**

25 **(Copyright Infringement)**

26 21. Autodesk re-alleges and incorporates herein by this reference each of the
27 allegations contained in Paragraphs 1 through 20 above as though fully set forth.

28 22. Defendant's acts and omissions constitute willful, intentional, and malicious

1 infringement of the Autodesk Copyright in violation of the Copyright Act, 17 U.S.C. § 501.

2 23. Defendant's willful, intentional, and malicious copyright infringement has caused
3 and will continue to cause Autodesk to suffer substantial injuries, loss, and damage to its
4 proprietary and exclusive rights to the Autodesk Product and the Autodesk Copyright and has
5 caused and will continue to cause Autodesk to lose profits in an amount not yet ascertained.

6 24. Defendant's copyright infringement, and the threat of continuing infringement by
7 Defendant, has caused and will continue to cause Autodesk to suffer repeated and irreparable
8 injury. It would be difficult to ascertain the amount of money damages that would afford
9 Autodesk adequate relief at law for Defendant's continuing acts and omissions complained of
10 herein and a multiplicity of judicial proceedings would be required. Autodesk's remedy at law is
11 not adequate to compensate Autodesk for the injuries already inflicted and further threatened by
12 Defendant. Therefore, Autodesk respectfully requests as prayed for below that Defendant be
13 restrained and enjoined as authorized by the Copyright Act.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Autodesk seeks relief as follows:

16 1. That, upon motion, the Court issue a preliminary injunction enjoining and
17 restraining Defendant and its agents, servants, employees, successors and assigns, and all other
18 persons acting in concert or conspiracy with Defendant or affiliated with Defendant, from:

19 (a) Copying, reproducing, distributing, or using any unauthorized copies of
20 Autodesk's copyrighted software products;

21 (b) Otherwise infringing any of Autodesk's copyrights;

22 (c) Destroying, or otherwise disposing of, or altering any copies of software or
23 other products, materials, technologies, services, devices, components, documents, or
24 electronically stored data or files that relate or pertain in any way to the:

25 (i) Copying, reproduction, distribution or use of any of Autodesk's
26 software products; or

27 (ii) Infringement of any of Autodesk's copyrights.

28 2. That the Court issue a permanent injunction making permanent the orders

1 requested in paragraphs 1(a) and (b) of this Prayer for Relief;

2 3. That Autodesk be awarded for Defendant's willful, intentional, and malicious
3 copyright infringement either: (a) actual damages in an amount to be determined at trial, together
4 with the profits derived from Defendant's infringement of Autodesk's copyrighted software
5 products; or (b) statutory damages for each act of infringement in an amount provided by law, as
6 set forth in 17 U.S.C. § 504, at Autodesk's election before the entry of a final judgment;

7 4. That the Court issue an order upon entry of judgment in this action requiring
8 Defendant to destroy any and all infringing copies in Defendant's possession, custody, or control
9 of Autodesk's software products, as set forth by the Copyright Act, 17 U.S.C. § 503(b);

10 5. That the Court issue an order requiring Defendant to serve on Autodesk within
11 thirty (30) days after service of an injunction a report, in writing, under oath, setting forth in detail
12 the manner and form in which Defendant has complied with the injunction;

13 6. That the Court award Autodesk its reasonable attorney's fees pursuant to 17
14 U.S.C. §§ 505;

15 7. That the Court award Autodesk its costs of suit incurred herein; and

16 8. That the Court grant such other and further relief as it deems just and proper.

17 Dated: April 28, 2010

DONAHUE GALLAGHER WOODS LLP

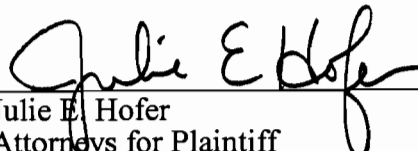
18
19 By: 
20 Julie E. Hofer
21 Attorneys for Plaintiff
22 AUTODESK, INC.
23
24
25
26
27
28

EXHIBIT A

CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

REGISTER OF COPYRIGHTS

FORM TX

For a Literary Work

U
R

TX 5-373-538



EFFECTIVE DATE OF REGISTRATION

8 24 01
Month Day Year

OFFICIAL SEAL

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, ATTACH AN ADDITIONAL CONTINUATION SHEET.

1

TITLE OF THIS WORK ▼

AutoCAD 2002 and User's Guide

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

2

a NAME OF AUTHOR ▼

Autodesk, Inc.

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR { Citizen of U.S.A.
Domiciled in U.S.A.

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

New and revised software code and User's Guides.

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

b NAME OF AUTHOR ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR { Citizen of U.S.A.
Domiciled in U.S.A.

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

c NAME OF AUTHOR ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR { Citizen of U.S.A.
Domiciled in U.S.A.

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No

Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

3

a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2001

This information must be given in all cases.

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month June

Day 20

Year 2001

United States of America

Nation

4

c COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Autodesk, Inc.
111 McInnis Parkway
San Rafael, CA 94903

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

DO NOT WRITE HERE
OFFICE USE ONLY

APPLICATION RECEIVED

AUG 24, 2001

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

AUG 24, 2001

FUNDS RECEIVED

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-11) on the reverse side of this page
• See detailed instructions
• Sign the form at line 10

DO NOT WRITE HERE

Page 1 of 2 pages

EXHIBIT A

EXAMINED BY _____ FORM TX

CHECKED BY _____

☐ CORRESPONDENCE
☐ Yes
FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☒ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☒ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

TX-4-967-648 (1999)

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

AutoCAD 2000 and User's Guide.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

New and revised software code and User's Guide.

—space deleted—

REPRODUCTION FOR USE OF BLIND OR PHYSICALLY HANDICAPPED INDIVIDUALS A signature on this form at space 10 and a check in one of the boxes here in space 8 constitutes a non-exclusive grant of permission to the Library of Congress to reproduce and distribute solely for the blind and physically handicapped and under the conditions and limitations prescribed by the regulations of the Copyright Office: (1) copies of the work identified in space 1 of this application in Braille (or similar tactile symbols); or (2) phonorecords embodying a fixation of a reading of that work; or (3) both.

a ☐ Copies and Phonorecordsb ☐ Copies Onlyc ☐ Phonorecords Only

See instructions.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Ac. count.

Name ▼

Account Number ▼

Donahue, Gallagher, Woods & Wood, LLP

DAO81221

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/ZIP ▼

Jonathan N. Osder, Esq.

DONAHUE, GALLAGHER, WOODS & WOOD, LLP

591 Redwood Highway, Suite 1200, Mill Valley, CA 94941

Area Code and Telephone Number ▶ (415) 381-4161

CERTIFICATION* I, the undersigned, hereby certify that I am the

Check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of Autodesk, Inc.

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Jonathan N. Osder

Date ▶ 24 Aug 01

Handwritten signature (X) ▼

MAIL
CERTIFI-
CATE TOCertificate
will be
mailed in
window
envelope

Name ▼

Jonathan N. Osder, Esq. DONAHUE, GALLAGHER, WOODS & WOOD, LLP

Number/Street/Apt ▼

591 Redwood Highway, Suite 1200

City/State/ZIP ▼

Mill Valley, CA 94941

YOU MUST

- Complete all necessary spaces
- Sign your application in space 10

SEND ALL FEES/ITEMS
IN THE SAME PACKAGE

1. Application form
2. Nonrefundable \$20 filing fee in check or money order payable to Register of Copyrights
3. Deposit material

MAIL TO:
Register of Copyrights
Library of Congress
Washington, D.C. 20559-6000

*17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500

May 1995—300,000

EXHIBIT A

U.S. COPYRIGHT OFFICE WWW FORM. 1995